

Remarks

Applicants respectfully request reconsideration of the application.

The Office contends that claims in this application (10/723,181) are not entitled to the priority identified in response to the last Action because application 09/234,780 had been abandoned on 10/27/2000 before this application 10/723,181 was filed on 11/26/2003.

Applicants respectfully disagree. The priority claim in this application includes the following

“This patent application is also a continuation in part of 10/012,703, filed December 7, 2001, which is a continuation of 09/433,104, filed November 3, 1999 (now U.S. Patent No. 6,636,615), which is a continuation in part of 09/234,780, filed January 20, 1999 (now abandoned), which claims priority to 60/071,983, filed January 20, 1998.”

The Office appears to have overlooked that priority is claimed to application 09/234,780 through application 10/012,703, filed December 7, 2001, and issued on 6/1/04 (6,744,906), and application 09/433,104, filed November 3, 1999, and issued on 10/23/2003. Parent application 09/433,104 was filed prior to the abandonment of 09/234,780. Therefore, the co-pendency requirement is met.

The Office further contends that the co-pendency requirement is not satisfied for 60/071,983. However, as shown above, priority is properly claimed to 60/071,983 through a chain of co-pending applications, and therefore, the co-pendency requirement is met. Specifically, 09/234,780 is the non-provisional application that claims priority to 60/071,983. As shown above, priority is properly claimed to 09/234,780, and application 09/234,780 was filed within one year of 60/071,983. Since the co-pendency requirement is satisfied for each link in the chain of priority back to 60/071,983, the co-pendency requirement has been satisfied.

Finally, the Office further contends that the application is not entitled to priority to 09/074,034. Applicants respectfully disagree. The application claims priority as follows:

“This patent application is also a continuation in part of 10/165,751, filed June 6, 2002, which is a continuation of 09/074,034, filed May 6, 1998 (now U.S. Patent No. 6,449,377.”

This application was filed prior to the issuance of 10/165,751 as U.S. Patent No. 6,754,377 on 6/22/04. Further, 10/165,751 was filed 6/6/2002, which is prior to 9/10/2002, the issue date of 09/074,034 as U.S. Patent No. 6,449,377. Therefore, the co-pendency requirement is satisfied for this priority claim as well.

In view of the above, newly cited U.S. Patent No. 7,054,461 to Zeller et al. is not prior art and cannot be combined with other references. Further, as indicated in the last response, at least previously cited US Patent Publication 2004-0075869 by Hilton et al. is not prior art. Therefore, the claims are patentable over the art applied in the Action.

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Respectfully submitted,

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